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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,532	12/20/2005	Heino Messerschmidt	20037.1001USWO	8331

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MINNEAPOLIS, MN 55402-0902

EXAMINER

SCHILLER, ALINA

ART UNIT	PAPER NUMBER
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3671

MAIL DATE	DELIVERY MODE
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01/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/563,532

Applicant(s)

MESSERSCHIMIDT ET AL.

Examiner

Alina Schiller

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/20/05; 03/20/06; 05/11/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the phrases "is provided" (line 1) and "are provided" (line 3) are improper. Correction is required.

Claim Objections

2. Claim 1 is objected to because the phrase "lower side" (line 7) is vague and confusing; term "that" (line 11) should be deleted; and repetitive use of the phrase "adapted for" (lines 3, 5, and 11) causes the scope of limitations to be unclear, since the claim does not specify how the features are adapted to perform the functions. Appropriate corrections are required. The examiner suggests adding the phrase "of said U-shaped profile" after "lower side".

Claim 10 is objected to because the repetitive use of the phrase "adapted for" (lines 2, 4, and 8) causes the scope of limitations to be unclear, since the claim does not

specify how the features are adapted to perform the functions. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites the limitation "said undercut sections" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

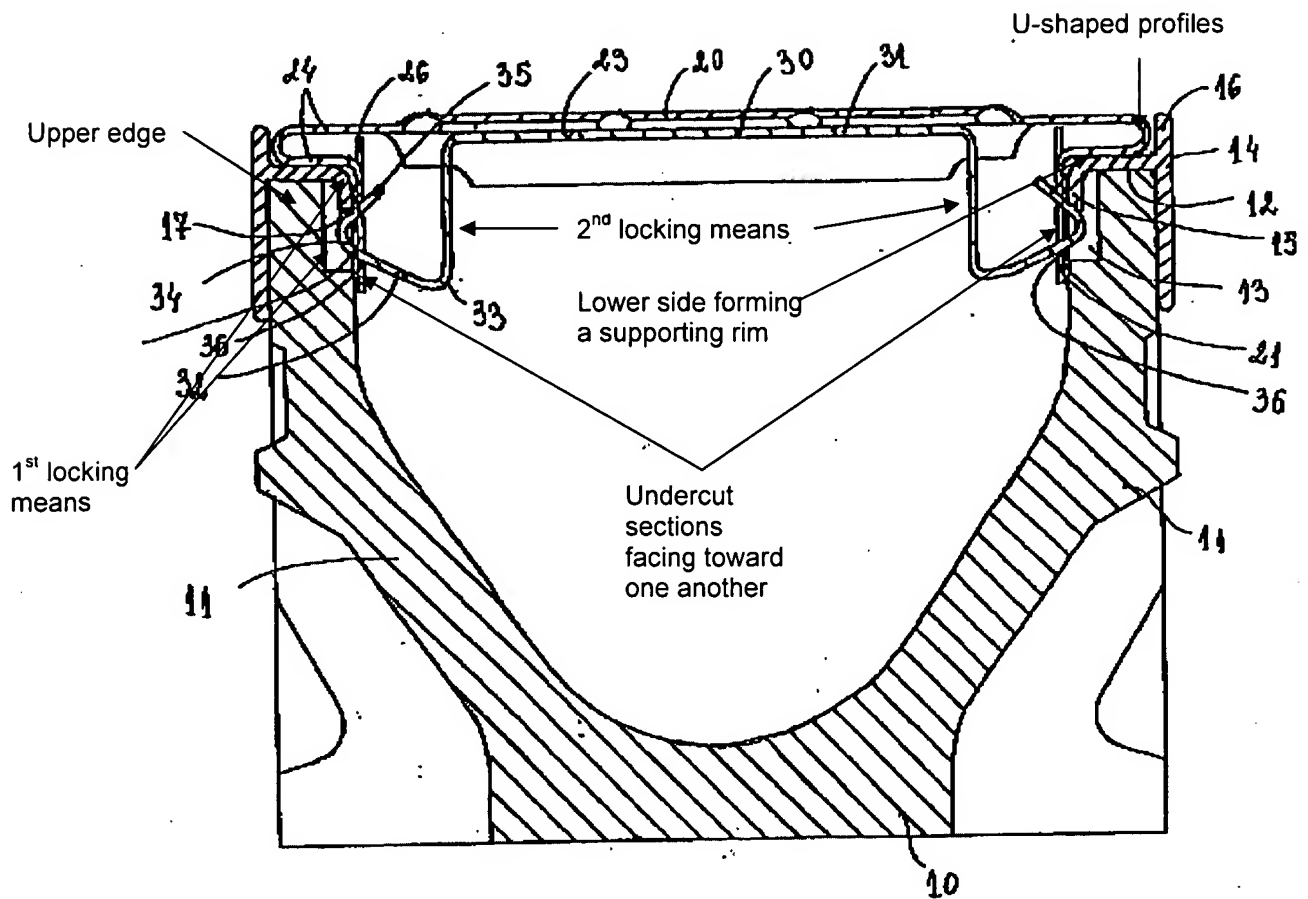
Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Rathmann et al 2004/0126187.

Regarding claim 1, Rathmann discloses a surface water drainage system (as seen in Fig. 1), comprising

a structure (10) adapted for installation in the ground such that it defines an upper edge and comprising a first locking means (as seen in the modified picture below taken from Fig. 1);

a cover (20) adapted for location on the upper edge of the structure and fabricated from sheet metal ([0020], lines 1-2) having edges forming U-shaped profiles with undercut sections that face toward one another and with a lower side forming a supporting rim (as seen in the modified picture below); and

fixation devices (30; claim 1, line 5) attached to said edges of the cover and comprising second locking means in the form of elastic hook elements ([0011]; [0014], line 6; claim 6, line 7) that are mounted within said undercut sections and that are adapted for snapping engagement ([0014]) with said first locking means on the structure in order to retain the cover on the structure (as seen in the modified picture below; [0027], lines 5-6).



Regarding claims 2 and 3, Rathmann discloses that the second locking means are detachably fixed to the cover ([0016]; [0036], lines 11-18; claim 8; Fig. 1), and are fixed to the cover ([0011]; [0012], lines 9-12; [0016]; [0034]; as seen in Fig. 1).

Regarding claim 4, Rathmann discloses that the second locking means comprise flexible fixation elements (32-35) adapted such that less force is required to change their shape during their mounting to the cover than during their detachment from the cover ([0014]; [0016]; claim 8).

Regarding claim 5, Rathmann discloses that the second locking means comprise tensioning devices (34) that press the first locking means against the cover to ensure fixation without play (as seen in Fig. 1; [0034], lines 6-7; [0015]).

Regarding claim 6, Rathmann discloses that the second locking means are each constructed as a springs ([0011], lines 1-2) from a bent strip of material (as seen in Fig. 2).

Regarding claim 7, Rathmann discloses that the second locking means are each fixed within said undercut sections of the cover (as seen in Fig. 1) by means of a tab (34) that has been bent outward from the strip of material (as seen in Fig. 2).

Regarding claim 8, Rathmann discloses that the cover in the region of each said undercut sections defines an aperture (22) to engage the tabs.

Regarding claims 9 and 18, Rathmann discloses that the second locking means, which are constructed as springs can be made of plastic ([0019]), and since the second locking means can be elastically deformed ([0014], line 5-7), the second locking means inherently comprises elastomer bodies.

Regarding claim 10, Rathmann discloses a water drainage system (as seen in Fig. 1) comprising

a structure (10) adapted for installation in the ground such that it defines an upper edge and comprising a first locking means (as seen in the modified picture above);

a cover (20) adapted for location on the upper edge of the structure and having edges defining recesses (22); and

fixation devices (30; claim 1, line 5) attached to said edges of the cover and comprising second locking means in the form of elastic hook elements ([0011]; [0014], line 6; claim 6, line 7) that are inserted into said recesses (as seen in the modified picture above) and are adapted for snapping engagement ([0014]) with said first locking means on the structure in order to retain the cover on the structure (as seen in the modified picture above; [0027], lines 5-6).

Regarding claims 11-15, see the discussions for claims 2-6 above.

Regarding claims 16 and 17 as best understood, see discussions for claim 7 and 8 above.

Regarding claim 19, Rathmann discloses that the cover comprises a cast metal grating ([0020]).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alina Schiller whose telephone number is (571)270-3088. The examiner can normally be reached on Mon-Fri, 7:30AM-4:00PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on (571)272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Thomas B. Will
Supervisory Patent Examiner
Art Unit 3671

AS
12/27/2007